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The Upper Deck Company

14 **UNITED STATES DISTRICT COURT**

15 **DISTRICT OF NEVADA**

16 ANIPLEX, INCORPORATED, a Japanese
corporation,

17 Plaintiff and Counter-Defendant,

18 vs.

19 THE UPPER DECK COMPANY, a Nevada
20 corporation,

21 Defendant and
22 Counterclaimant.

) Case No. 2:08-CV-00442-HDM-PAL

) [Assigned for all purposes to the
Hon. Howard D. McKibben]

) **NON-CONFIDENTIAL DECLARATION**
) **OF KRISTINA FREDERICKS IN**
) **SUPPORT OF DEFENDANT AND**
) **COUNTERCLAIMANT THE UPPER**
) **DECK COMPANY'S MOTION FOR**
) **SUMMARY JUDGMENT OR, IN THE**
) **ALTERNATIVE, FOR SUMMARY**
) **ADJUDICATION OF ISSUES**

) **ORAL ARGUMENT REQUESTED**

) [Notice of Motion and Motion for Summary
) Judgment or, in the Alternative, for Summary
) Adjudication; Memorandum of Points and
) Authorities in Support Thereof; Statement of
) Undisputed Facts; Declaration of John
) Sepenuk and Confidential Declaration of
) Kristina Fredericks Filed Concurrently
) Herewith]

1 I, Kristina Fredericks, declare as follows:

2 1. I am an attorney at law licensed to practice in the State of California. I am associate
3 at the law firm of Liner Grode Stein Yankelevitz Sunshine Regenstreif & Taylor LLP (the "Liner
4 Firm"), counsel for defendant and counterclaimant The Upper Deck Company ("Upper Deck") in
5 the above-captioned matter. The facts set forth herein are of my own personal knowledge, except
6 for those matters set forth on information and belief, and as to those matters I am informed and
7 believe them to be true.

8 2. Attached hereto as Exhibit 12 is a true and correct copy of the relevant portions (pp.
9 8-9, 12-13, 82-83) of the transcript of the February 5, 2009 deposition of Akira Shinohara taken in
10 the above-captioned matter.

11 3. Attached hereto as Exhibit 13 is a true and correct copy of the relevant portions (pp.
12 10, 15-16, 101, 132) of the transcript of the May 20, 2009 deposition of Eichii Kamagata taken in
13 the above-captioned matter.

14 4. Attached hereto as Exhibit 14 is a true and correct copy of the relevant portions (pp.
15 16-17, 19-20, 34-38, 64, 66, 135, 139-140, 169, 194) of the transcript of the February 11, 2010
16 deposition of Asa Suehira-Weintraub taken in the above-captioned matter.

17 5. Attached hereto as Exhibit 15 is a true and correct copy of the relevant portions (pp.
18 26; 278-279) of the transcript of the February 24, 2010 deposition of Jerry Bennington taken in the
19 above-captioned matter.

20 6. Attached hereto as Exhibit 16 is a true and correct copy of the relevant portions (p.
21 24-26; 217) of the transcript of the March 3, 2010 deposition of Naritoshi Sato taken in the above-
22 captioned matter.

23 7. Attached hereto as Exhibit 17 is a true and correct copy of the relevant portions (p.
24 18; 125) of the transcript of the April 12, 2010 deposition of Shuko Yokoyama taken in the above-
25 captioned matter.

26 8. Attached hereto as Exhibit 18 is a true and correct copy of the relevant portions (pp.
27 17-21, 151, 187, 192-193) of the transcript of the April 20-21, 2010 deposition of Hideo Katsumata
28 taken in the above-captioned matter.

1 9. Attached hereto as Exhibit 19 is a true and correct copy of the relevant portions (p.
2 47, 383) of the transcript of the May 3-5, 2010 deposition of Kenichi Oshima taken in the above-
3 captioned matter.

4 10. Attached hereto as Exhibit 20 is a true and correct copy of the relevant portions (pp.
5 21-22, 51, 54, 94, 111-112, 116-125, 132, 193-196, 201-210) of the transcript of the May 11-12,
6 2010 deposition of Keiko Nobuoka taken in the above-captioned matter.

7 11. Attached hereto as Exhibit 21 is a true and correct copy of the relevant portions (pp.
8 12-13, 28, 31-32; 103-111, 136-137, 152, 154, 183) of the transcript of the May 25-26, 2010
9 deposition of Jun Tanaka taken in the above-captioned matter.

10 12. Attached hereto as Exhibit 22 is a true and correct copy of the relevant portions (pp.
11 15-16, 73-75, 107-108, 117-119, 197-199) of the transcript of the June 2-3, 2010 deposition of
12 Koichiro Natsume taken in the above-captioned matter.

13 13. Attached hereto as Exhibit 23 is a true and correct copy of the relevant portions (pp.
14 10, 84-88, 101-103) of the transcript of the June 24, 2010 deposition of Yu Chi ("Alex") Yeh taken
15 in the above-captioned matter.

16 14. Attached hereto as Exhibit 24 is a true and correct copy of the relevant portions (pp.
17 183-190) of the transcript of the July 6-7, 2010 deposition of Masaki Kaifu taken in the above-
18 captioned matter.

19 15. Attached hereto as Exhibit 25 is a true and correct copy of Hiroyuki Miwa's
20 Supplemental Responses to Deposition on Written Questions that was served on Upper Deck by
21 counsel for Aniplex, Inc. ("Aniplex") on or about July 29, 2010.

22 16. Many of the documents produced during the discovery phase in this action
23 (particularly documents produced by Aniplex) are written in Japanese. Counsel for Aniplex and
24 Upper Deck mutually agreed to engage Morningside Translations as a certified translator to
25 translate the Japanese language documents selected for translation by the respective parties.

26 17. Attached hereto as Exhibit 26 is a true and correct copy of the certified translation
27 together with the original Japanese language version of the "Agreement of Commissioning
28 Production Services" purportedly dated January 1, 2005 between Aniplex and Madhouse, Inc.

1 (“Madhouse”) that was produced by Aniplex during discovery in this matter and has been Bates
2 numbered ANX030029-36. The Japanese and certified English translation of this document were
3 marked at the deposition of Asa Suehira-Weintraub as Exhibit 2.

4 18. Attached hereto as Exhibit 27 is a true and correct copy of the certified translation
5 together with the original Japanese language version of a February 10, 2006 email from Hiroyuki
6 Miwa to Takehito Yokomaku, with courtesy copies to Hiroshi Okeda and Eri Koizumi, Bates
7 numbered ANX036147. The Japanese and certified English translation of this document were
8 marked at the deposition of Keiko Nobouka as Exhibits 138a and 138b.

9 19. Attached hereto as Exhibit 28 is a true and correct copy of the certified translation
10 together with the original Japanese language version of a February 21, 2006 email string involving
11 Hiroyuki Miwa, Eiichi Kamagata, Takehito Yokomaku and Eri Koizumi, Bates numbered
12 ANX036151-52. The Japanese and certified English translation of this document were marked at
13 the deposition of Keiko Nobouka as Exhibits 131a and 131b.

14 20. Attached hereto as Exhibit 29 is a true and correct copy of the certified translation
15 together with the original Japanese language version of a June 11, 2006 email string involving Asa
16 Suehira-Weintraub and Jun Tanaka, Bates numbered ANX012345-48. The Japanese and certified
17 English translation of this document were marked at the deposition of Asa Suehira-Weintraub as
18 Exhibits 31a and 31b.

19 21. After I and other attorneys at the Liner Firm completed our review of Aniplex’s
20 initial production of documents, we noted that there appeared to be documents missing from
21 Aniplex’s production. Beginning in or about March 2010, counsel for Aniplex and I met and
22 conferred regarding the deficiencies in Aniplex’s production. As a result of those discussions,
23 Aniplex produced additional documents on April 13, 2010 and April 14, 2010, including, in
24 particular, documents relating to the rights in the “Kiba” property. After that production, it came to
25 our attention that Aniplex still had not produced a July 25, 2006 letter from Susumu Matsushita
26 Enterprises, Inc., referenced in Paragraph 5 of the Confidential Declaration of Kristina Fredericks
27 in Support of Defendant and Counterclaimant The Upper Deck Company’s Motion for Summary
28 Judgment or, in the Alternative, for Summary Adjudication of Issues filed concurrently herewith.

1 That document was specifically requested by a member of my firm and Aniplex produced it on
2 May 19, 2010.

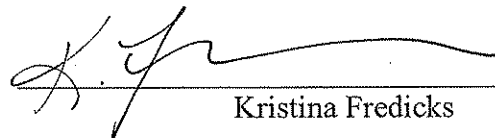
3 22. Attached hereto as Exhibit 30 is a true and correct copy of pages from the
4 Dictionary of Contractual and Legal Terms English-Japanese Edition (2004) showing the
5 translations for the English words "consultation" and "consensus," respectively, into Japanese. I
6 spoke with my colleague Masahisa Mitsunaga who speaks and reads English and Japanese. He
7 advised me that the dictionary states that the word "consultation" is translated into Japanese as
8 "kyougi" (phonetic) and the English word "consensus" is translated into Japanese as "goui"
9 (phonetic).

10 23. Attached hereto as Exhibit 31 is a true and correct copy of a print out from the
11 website <http://en.bab.la/dictionary/japanese-english/> showing the translations of the Japanese words
12 "kyougi" (phonetic) and "goui" (phonetic), respectively, into English. I spoke with my colleague
13 Masahisa Mitsunaga who speaks and reads English and Japanese. He advised me that the print out
14 states that the Japanese word "kyougi" (phonetic) is translated into English as "consultation,"
15 "discussion," "negotiation" or "conference." He further advised me that the print out states that the
16 Japanese word for "goui" (phonetic) is translated into English as "understanding," "agreement,"
17 "consent" or "mutual understanding."

18 24. Attached hereto as Exhibit 32 is a true and correct copy of a print out from
19 <http://www.japaneselawtranslation.go.jp/?re=02>, which provides the original Japanese language
20 and English translation of Sections 64 and 65 of the Japanese Copyright Act.
21

22 I declare under penalty of perjury under the laws of the State of California that the
23 foregoing is true and correct.

24 Executed this 6th day of August, 2010, at Los Angeles, California.

25
26 
27 Kristina Fredicks
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